

CHAMPION INDUSTRIES, INC.

FOO MAIL SECTION

300 West Mission Drive
Chandler, Arizona 85224
(602) 497-5774

JUN 29 1 52 PM '92

RECEIVED BY

June 24, 1992

RECEIVED

Ms. Donna R. Searcy
Office of the Secretary
Federal Communications Commission
1919 M Street, North West
Washington D.C. 20554

JUN 29 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Comments to NOTICE OF PROPOSED RULE MAKING

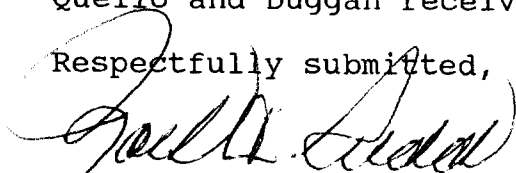
Dear Ms. Searcy:

ORIGINAL
FILE

Pursuant to the applicable procedures set forth in NOTICE OF PROPOSED RULE MAKING released May 8, 1992, Docket 92-80, I enclose herewith an original and nine (9) copies of Champion Industries, Inc.'s. comments.

Again, pursuant to the NOTICE, I request that both Commissioner Quello and Duggan receive copies of the enclosed comments.

Respectfully submitted,



Noel C. Rudd, President
Champion Industries, Inc.

No. of Copies rec'd
List A B C D E

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Mr. James H. Quello, Commissioner
Mr. Ervin S. Duggan, Commissioner
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

JUN 29 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: Comments regarding NOTICE OF PROPOSED RULE MAKING GOVERNING THE
2.1 & 2.5 GHz Bands.**

Gentlemen:

I am delighted at the Commission's attempt to reform its regulatory scheme pertaining to wireless cable and the streamlining of application procedures.

Champion Industries is a 1983 lottery applicant and has been thrashing at the wireless cable business ever since. Needless to say I am pleased with the Commission's acknowledgement that inconsistencies and delays exist. I commend you for this attempt to remedy at least some of them.

I wish to comment on an issue which was not addressed in the Notice, but nevertheless, at least in my view, is an important aspect to the furtherance of the wireless cable industry.

The following comments concern the Commission's current policy regarding commercial ITFS applications as authorized pursuant to the October 25, 1991 Second Report and Order, General Docket No. 90-54.

After authorizing limited commercial use of these frequencies, which effectively eliminated application mills, it is my understanding that the commercial applications, (most of which were filed on or shortly after January 2, 1992) are sitting in unopened boxes at the Private Radio Bureau in Gettysburg, Pennsylvania. Further, it is my understanding that the Commission's intent is to process and act upon all noncommercial ITFS applications prior to any attention being given to the boxed commercial ITFS applications in Gettysburg.

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This delay, coupled with the policy of giving priority to noncommercial applications (regardless of filing date) has created a mutation form of application mills: Greenmail.

I am not advocating whatsoever the proposition that legitimate noncommercial ITFS applicants should become subordinate to commercial users. I am, however, attempting to point out that this policy has created a condition of unintended consequences under which most ITFS commercial applications will eventually be returned. This policy favors local filings sponsored by and filed on behalf of entities whose real interest is not to serve the surrogate applicants, but to extract a booty from the wireless operator. (RuralVision comes to mind). It will in essence knock the commercial applicants out of the box in each and every case where noncommercial applications are filed against competing commercial applications. It is by no means a coincidence that so many local educators have suddenly "discovered" ITFS frequencies which, prior to January 2, 1992 had lain fallow for decades.

I cannot believe it is the Commission's intent to subsidize school districts, educators and nonprofit religious organizations at the expense of the larger public. Condoning this abuse of ITFS frequencies serves no legitimate purpose and simply increases the costs for the wireless operator. It places a prospective wireless operator, attempting to assemble a critical mass of channels, in a position where he must deal with organizations whose real motive is profit. Viewed from this perspective it cuts against the public's interest by increasing the wireless subscriber's cost of viewing.

The ITFS frequencies represent 60+% of the available wireless cable channels. They play an integral part in the viability and competitiveness of most wireless cable systems. The Second Report and Order attempted to recognize this fact by making available a limited number of channels in under utilized markets. An abundance of conditions and protective rules are woven within the Order. It is clear that the Commission wished to make available the excess capacity of ITFS channels for commercial use. This is not about to happen under current thinking.

Because of the delay in processing legitimate commercial applications and the Commission's stated policy of preference to noncommercial applicants, a zero sum game appears to have materialized and the wireless operator is again back to square one.

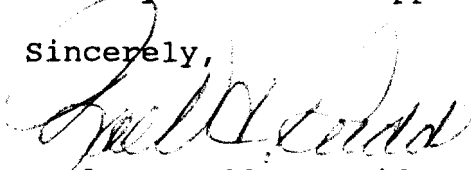
While undergoing this process of regulatory restructure and streamlined processing procedures, please revisit the Commission's stance on ITFS frequencies. If the Commission is truly interested in fostering the growth and development of wireless cable as an alternative to traditional coaxial cable systems, then a more balanced trade off must be achieved between the commercial and non

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commercial uses of the ITFS channels. There must be a better way to meet the legitimate needs of educators and religious organizations and those of wireless operators attempting to take the entrepreneurial plunge.

Thank you for the opportunity to offer my comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Noel C. Rudd".

Noel C. Rudd, President
Champion Industries, Inc.